

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

State of Ohio, ex rel.

Attorney General Dave Yost

Plaintiff,

v.

Civil Action 2:22-cv-2700

Chief Judge Marbley

Magistrate Judge Jolson

Aaron Michael Jones, et al

Defendants.

RULE 26(f) REPORT OF PARTIES

Pursuant to Federal Rule of Civil Procedure 26(f), a meeting was held via teleconference on October 19, 2022 and was attended by:

Erin B. Leahy, counsel for Plaintiff, State of Ohio,

Christopher J. Belmarez, counsel for Plaintiff State of Ohio,

Justin Whitaker, counsel for Defendants Roy Melvin Cox, Jr. and Julie Kathryn Bridge,

Vincent Stafford, counsel for Defendant June Batista, and

Defendant June Batista

Counsel and Defendant Batista represent that, during the meeting, they engaged in a meaningful attempt to meet and confer on the matters outlined below.

1. CONSENT TO MAGISTRATE JUDGE

Do the parties consent to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c)?

_____ Yes X No

2. INITIAL DISCLOSURES

Have the parties agreed to make initial disclosures?

X Yes _____ No _____ The proceeding is exempt under Rule 26(a)(1)(B)

If yes, such initial disclosures shall be made by November 29, 2022.

3. VENUE AND JURISDICTION

Are there any contested issues related to venue or jurisdiction?

X Yes _____ No

If yes, describe the issue:

Defendants Cox and Bridge reserve the right to challenge the Court's exercise of personal jurisdiction under Ohio's Long Arm Statute, Ohio Revised Code §2307.382, and applicable law.

If yes, the parties agree that any motion related to venue or jurisdiction shall be filed by November 9, 2022.

4. PARTIES AND PLEADINGS

- a. The parties agree that any motion or stipulation to amend the pleadings or to join additional parties shall be filed by 60-90 days after any decisions on motions to dismiss or 120 days after opening of discovery, whichever is later, unless good cause is shown.
- b. If the case is a class action, the parties agree that the motion for class certification shall be filed by N/A.

5. MOTIONS

- a. Are there any pending motion(s)?

_____ Yes X No

If yes, indicate which party filed the motion(s), and identify the motion(s) by name and docket number:

- b. Are the parties requesting expedited briefing on the pending motion(s)?

_____ Yes _____ No

If yes, identify the proposed expedited schedule:

Opposition to be filed by _____; Reply brief to be filed by _____.

6. **ISSUES**

Jointly provide a brief description of case, including causes of action set forth in the complaint, and indicate whether there is a jury demand:

Plaintiff's Complaint alleges that Defendants operated an elaborate robocall scheme for the primary purpose of generating and selling sales leads. Plaintiff allege the Defendants are responsible for initiating over 800 million deliver artificial or prerecorded messages ("robocalls") to Ohio telephone numbers. Plaintiff alleges the conduct violates two federal telemarketing statutes/rules, the Telephone Consumer Protection Act (TCPA), 47 U.C.S. §227 and the Telemarketing Sales Rule (TSR), 16 C.F.R. part 310 and two state laws, the Ohio Consumer Sales Practices Act (CSPA), O.R.C. 1345 et seq and the Ohio Telephone Solicitation Sales Act (TSSA), O.R.C. 4719.

Defendants Cox and Batista included a Jury Demand in their Answers to the Complaint.

7. **DISCOVERY PROCEDURES**

- a. The parties agree that all discovery shall be completed by December 15, 2023. The parties agree to schedule their discovery in such a way as to require all responses to discovery to be served prior to the cut-off date, and to file any motions relating to discovery within the discovery period unless it is impossible or impractical to do so. If the parties are unable to reach an agreement on any matter related to discovery, they are directed to arrange a conference with the Court. To initiate a telephone conference, counsel are directed to join together on one line and then call the Magistrate Judge's chambers or provide the Court with a call-in number.

- b. Do the parties anticipate the production of ESI? X Yes _____ No

If yes, describe the protocol for such production:

Parties are working on a draft protocol for production of ESI. Parties agree to file a supplement to this report outlining Parties' agreed protocol for ESI with the filing of the protective order/clawback agreement no later than November 23, 2022.

- c. Do the parties intend to seek a protective order or clawback agreement? Yes, Parties agreed to review the Court's standing protective orders and make any revisions that may be needed.

If yes, such order or agreement shall be produced to the Court by November 23, 2022

8. **DISPOSITIVE MOTIONS**

- a. Any dispositive motions shall be filed by January 19, 2024.

- b. Are the parties requesting expedited briefing on dispositive motions?

 Yes X No

If yes, identify the proposed expedited schedule:

Opposition to be filed by _____; Reply brief to be filed by _____.

9. EXPERT TESTIMONY

- a. Primary expert reports must be produced by October 6, 2023.
- b. Rebuttal expert reports must be produced by November 3, 2023.

10. SETTLEMENT

Plaintiff(s) will make a settlement demand by January 26, 2024. Defendant will respond by January 30, 2024. The parties agree to make a good faith effort to settle this case. The parties understand that this case will be referred to an attorney mediator, or to the Magistrate Judge, for a settlement conference. The Court refers cases to settlement throughout the year. The parties request the following month and year: February 9, 2024

In order for the conference to be meaningful, the parties agree to complete all discovery that may affect their ability to evaluate this case prior to the settlement conference. The parties understand that they will be expected to comply fully with the settlement conference orders which require, *inter alia*, that settlement demands and offers be exchanged prior to the conference and that principals of the parties attend the conference.

11. RULE 16 PRETRIAL CONFERENCE

Do the parties request a scheduling conference?

 Yes, the parties would like a conference with the Court prior to it issuing a scheduling order. The parties request that the conference take place telephone. in chambers by

 X No, a conference is not necessary; the Court may issue a scheduling order after considering this Report.

12. OTHER MATTERS

Indicate any other matters for the Court's consideration:

The parties reviewed and considered Chief Judge Marbley's 18-month case timeline from his general order. Due to the number of defendants, some of whom are outside of the U.S. and the extensive nature of potential discovery, the Parties request an additional 10 weeks for the trial

schedule. The parties would like a trial date of **March 18, 2024**. Additionally, if the trial date would be an 18-month schedule, the trial date would be January 7, 2024 resulting in many of the significant trial prep events falling to the later part of December and several specifically falling between the Christmas and New Year holiday.

With a trial date of March 18, 2024, the following dates would be consistent with the Court's timeline from the Order Setting Trial Date and Settlement Conference:

Trial Exhibit Due to Court (2 days prior to trial)- Friday, 3/15/2022

Trial Demonstratives Due to Opposing Counsel
other than for final argument (one week prior to
trial) - Monday, 3/11/2024

Final Pretrial (10 days prior to trial) - Friday, 3/8/2024

Memo contra pretrial motions or motions in limine,
obj to suppl jury instructions, obj to depo
designations, and final pretrial order (14 days prior
to trial) - Monday, 3/4/2024

Motions in limine, pretrial motions and joint jury
instructions and suppl jury instructions, designation
of depo transcripts, witness statements, stipulations
and exhibit lists (21 days prior to trial) - Monday, 2/26/2024

Stipulations (no specific timing in rule or Judge's
general order so set for after final disclosures but
prior to final pretrial motions) - Friday, 2/16/2024

As to Discovery protocols, the parties further agree that:

Privilege logs will be provided, as applicable, with discovery responses.

Due to the number of defendants, some of whom are outside of the U.S., and the extensive nature of potential discovery, the federal rules discovery limitations, without leave of court, should be increased to the following per party:

Number of Admissions increased to 50 from 40 allowed by the rule;

Number of Interrogatories increased to 50 from 25 allowed by the rule;

Number of Depositions increased to 25 from 10 allowed by the rule.

Respectfully Submitted,

Attorney for Plaintiff:

s/ Erin B. Leahy

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s/ Justin Whittaker by s/ Erin B. Leahy per
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Defendant, Pro Se

CERTIFICATE OF SERVICE

I hereby certify that on October 26, 2022, a copy of the foregoing Waiver of Service for Tech Direct LLC was filed with the Clerk of Court using the CM/ECF system and sent regular U.S. Mail to:

June Ann Batista
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s/ Erin B. Leahy
ERIN B. LEAHY *Trial Attorney*
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Counsel for Plaintiff